

CITY OF JEANNETTE
WESTMORELAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 2025- 02

AN ORDINANCE OF THE CITY OF JEANNETTE, WESTMORELAND COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 16-09, AS AMENDED, § 462-18, ET SEQ., TO ADD DEFINITIONS; TO PROVIDE FOR THE REGULATION OF BORING, TUNNELING, ACCESS, AND INSTALLATIONS WITHIN CITY STREETS AND RIGHTS-OF-WAY; REPEALING INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Jeannette previously adopted Ordinance No. 16-09, and subsequent amendments, governing the opening and excavating of streets and rights-of-way situated within the City of Jeannette; and

WHEREAS, boring or disturbance beneath streets and public alleyways in the City of Jeannette affects the public right of way, could destabilize the subsurface support of the public right of way, could result in costs or liabilities to the City of Jeannette, and result in other negative consequences for the City of Jeannette and its residents; and

WHEREAS, pursuant to the Third Class City Code, 11 Pa.C.S.A. § 12445, "Council may consent to a person using city streets and other properties, whether the use is within, on or over the streets or public property in question, for transportation purposes or for the purpose of installing and maintaining pipes, wires, fibers, cables or any other utility or service medium. Council may define a reasonable district within which all electric or telephone wires, cables or any other utility or service medium are to be placed underground;" and

WHEREAS, 15 Pa.C.S.A. § 1511(e) provides that "[a] public utility corporation shall have the right to enter upon and occupy streets, highways, waters and other public ways and places for one or more of the principal purposes specified in subsection (a) and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes, including the placement, maintenance and removal of aerial, surface and subsurface public utility facilities thereon or therein. Before entering upon any street, highway or other public way, the public utility corporation shall obtain such permits as may be required by law and shall comply with the lawful and reasonable regulations of the governmental authority having responsibility for the maintenance thereof;"

WHEREAS, 53 P.S. § 1991 provides that "[t]he proper corporate authorities of such municipality shall have the right to issue permits determining the manner in which public service corporations or individuals shall place, on or under or over such municipal streets or alleys, railway tracks, pipes, conduits, telegraph lines, or other devices used in the furtherance of business; and nothing herein contained should be construed to in any way affect or impair the rights, powers, and privileges of the municipality in, on, under, over, or through the public streets or alleys of such municipalities, except as herein provided;"

WHEREAS, the City of Jeannette desires to exercise its authority to protect and preserve its public rights of way by requiring permits for boring or disturbance beneath any street or public alleyway.

WHEREAS, the Third Class City Code, 11 Pa.C.S.A. § 12414, affords the City of Jeannette with the power “to prohibit and abate public nuisances;” and

WHEREAS, the Third Class City Code affords the City of Jeannette with the power to regulate businesses and business activities within the City; and

WHEREAS, the Third Class City Code, 11 Pa.C.S.A. § 141A05, affords the City of Jeannette with powers relating to codes, occupancy, and inspections; and

WHEREAS, the Third Class City Code, 11 Pa.C.S.A. § 12435, affords the City of Jeannette with the power “to enact, make, adopt, modify, repeal and enforce, in accordance with this part, ordinances, resolutions, rules and regulations not inconsistent with or restrained by the Constitution of Pennsylvania and laws of this Commonwealth that are either of the following: (1) Expedient or necessary for the proper management, care and control of the city and its finances and the maintenance of the peace, good government, safety and welfare of the city and its trade, commerce and manufactures. (2) Necessary to the exercise of the powers and authority of local self-government in municipal affairs.”

BE IT ENACTED AND ORDAINED by the City Council of the City of Jeannette, Westmoreland County, Commonwealth of Pennsylvania, and it is hereby enacted and ordained as follows:

Section 1. Legislative Intent and Policy. It is the legislative intent and policy of the City of Jeannette to require permits for boring or disturbance beneath any street or public alleyway within the City of Jeannette in order to protect and preserve the public rights of way and to ensure consistent and effective use of such rights of way.

Section 2. Short Title; Amendment of Section 1.1 (§ 462-18). Section 1.1, as codified at § 462-18, is hereby amended to read, in its entirety, as follows:

“The short title of this article shall be and this article shall be hereinafter referred to as “The City of Jeannette Street Opening, Boring, Access, and Installation Ordinance.””

Section 3. Definitions; Amendment of Section 1.2 (§ 462-19). Section 1.2, as codified at § 462-19, is hereby amended as follows:

A. The definition of “Applicant” is hereby amended to read, in its entirety, as follows:

“APPLICANT

Any person, corporation, partnership or business entity who makes application for a street opening, boring, access, or installation permit.”

- B. The definition of "Permit" is hereby amended to read, in its entirety, as follows:

"PERMIT

A street opening or access permit issued to a permittee, which authorizes the permittee to engage in the opening or access of a street, alley or public right-of-way within the City of Jeannette, subject to the limitations of such permit and the terms of this article."

- C. The definition of "Permittee" is hereby amended to read, in its entirety, as follows:

"PERMITTEE

Any person, firm, association, partnership, corporation, public authority, public utility or any other entity who has been issued a street opening or access permit and has agreed to fulfill all the terms of this article."

- D. The definition of "Spoil" is hereby amended to read, in its entirety, as follows:

"SPOIL

Any and all waste materials, composition, concrete, asphalt, base or other fill or paving materials removed from the ground during the course of work performed under a street opening or access permit that it not intended for reuse at the excavation site."

- E. The definition of "Opening" to hereby added to read, in its entirety, as follows:

"OPENING or OPEN

Any opening, cutting, tearing up, seaming, excavating, boring, tunneling, trenching, or otherwise disturbing of any portion of a public street or right-of-way."

- F. The definition of "Access" is hereby added to read, in its entirety, as follows:

"ACCESS

Any access for the purpose of installing, placing, laying, constructing, maintaining, repairing, replacing, substituting, relocating, and removing any infrastructure or facilities."

Section 4. Street Opening, Paving, and Access Permits; Amendment of Article II (§ 462-20). Article II, as codified at § 462-20, is hereby amended as follows:

- A. Section 2.1(A), as codified at § 462-20(A)(1) is hereby amended to read, in its entirety, as follows:

"Street opening or access permit. From and after the date of passage of this article, it shall be unlawful for any person or persons, firm, company, corporation or authority to open, cut, tear up, seam, excavate, bore, tunnel, trench, disturb, or access any portion of any street, lane, alley, or right-of-way of the City of Jeannette for any purpose whatsoever without first procuring a street

opening or access permit from the City of Jeannette Department of Streets as same shall be issued through the City Clerk of the City of Jeannette.”

B. Section 2.1(B), as codified at § 462-20(A)(2) is hereby amended to read, in its entirety, as follows:

“Form and execution. Application for a street opening or access permit shall be in writing and on forms to be supplied by the City. Such form shall be completed, signed and verified by the person requesting such permit or, in the alternative, by a person duly authorized to act for and on behalf of a person, firm, corporation or authority for whose use and benefit the opening, excavation or access is to be made.”

C. Section 2.1(C), as codified at § 462-20(A)(3) is hereby amended to read, in its entirety, as follows:

“Emergency openings or access. Any person, utility, corporation, firm or authority maintaining pipes, lines or other underground facilities in or under the surface of any street or right-of-way may proceed with an opening or access without a permit when emergency circumstances would pose a threat to the public health, safety and welfare and would demand that work be done immediately and that the permit could not reasonably and practically have been obtained beforehand. In the event an emergency opening or access occurs, the person, firm, company, corporation or authority making such opening, excavation, or access shall thereafter apply for a permit on the first regular business day upon which the City of Jeannette conducts business, and said permit shall be retroactive to the date that the work was commenced.”

D. Section 2.2(A), as codified at § 462-20(B)(1) is hereby amended to read, in its entirety, as follows:

“(1) Amount of fee. The charge or fee for street opening or access permits under this article shall be determined in accordance with the permit fee schedule duly ordained and adopted by the Council of the City of Jeannette and attached hereto as Exhibit A. The City Clerk or authorized agent shall, upon receipt of the properly completed application, determine the amount of the fee to be paid by the permittee. In the event the nature and extent of the work to be performed requires inspections, a reasonable permit fee shall be set by the City Engineer based upon the nature and extent of the work to be performed.”

E. Section 2.2(C), as codified at § 462-20(B)(3) is hereby amended to read, in its entirety, as follows:

“Deficient payments/violation of ordinance. If any payment made is less than sufficient to pay all fees and costs, the permittee shall, upon demand, pay to the City an amount equal to the deficiency. No permit shall be issued to the applicant until such time as the entire permit fee is paid. The failure to pay all or part of any permit fee shall be deemed a violation of this article and be subject to punishment as set forth hereafter. In addition, any person who causes a street opening or access permit to issue without the payment of all or a portion of such permit fee, or the posting

of any bond or insurance certificate as hereafter required, shall likewise be deemed to be in violation of this article and subject to the penalties set forth herein.”

F. The heading of Section 2.3, as codified at § 462-20(C) is hereby amended to read, in its entirety, as follows:

“Conditions and issuance of street opening or access permits.”

G. Section 2.3(A), as codified at § 462-20(C)(1) is hereby amended to read, in its entirety, as follows:

“Issuance by City Clerk. All street opening or access permits required in § 462-20A(1) of this article shall be issued by the City Clerk of the City of Jeannette or their deputy or authorized agent and shall be subject to those conditions set forth hereafter.”

H. Section 2.3(C), as codified at § 462-20(C)(3) is hereby amended to read, in its entirety, as follows:

“Submission of bonds and plans of proposed improvements. As a condition to the issuance of the permit, the applicant shall file a bond in accordance with § 462-24B of this article with the City Treasurer in an amount prescribed in such section, the form of which has been approved by the City Solicitor. The application for a street opening or access permit to excavate for the installing, placing, laying, constructing, maintaining, repairing, replacing, substituting, relocating, and removing of any infrastructure or facilities, including, without limitation, gas, sewage, and/or water mains, conduits, or other such lines shall include a plan or sketch indicating the street proposed to be excavated and the location, kind and size of pipes to be installed, placed, laid, constructed, maintained, repaired, replaced, substituted, relocated, or removed. Plans and specifications for new infrastructure, facilities, mains, and conduits shall be subject to the review and approval of the City Engineer at the time application for a permit is made. No plan shall be approved nor will backfill be authorized to proceed unless all lines have a minimum of two feet of cover for main lines and 18 inches of cover for customer service lines as measured from the top of the pipes or conduit to the subgrade of the paved or to be improved street. On all other streets, the amount of cover to be provided will be subject to approval by the City Engineer.”

I. Section 2.3(E), as codified at § 462-20(C)(5) is hereby amended to read, in its entirety, as follows:

“Work to commence. Work for which a street opening or access permit has been issued shall commence within 10 days following the issuance of such permit. If not commenced within the ten-day time period, the permit shall automatically terminate. Permits thus terminated may be renewed upon the payment of an additional permit fee in an amount equal to the original permit fee required.”

J. Section 2.3(F), as codified at § 462-20(C)(6) is hereby amended to read, in its entirety, as follows:

“Completion of work within required time periods/extensions. Every permit shall contain a statement of the time period upon which the work is anticipated to be completed, and the street opening or access permit shall expire on the completion date. If the permittee is unable to complete the work described in such permit within the specified time, the permittee shall, prior to expiration of the permit, present a written request for an extension of time setting forth the reasons for the requested extension to the City Clerk. If in the opinion of the City Clerk such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.”

K. Section 2.3(G)(last paragraph), as codified at § 462-20(C)(7)(b) is hereby amended to read, in its entirety, as follows:

“With the exception of violations for failure to obtain a street opening or access permit where no such notice shall be given, a permittee may, at the sole discretion of the City Clerk, be granted a period of three days from the date of the notice of violation to correct the violation and to proceed with the diligent completion of the work originally authorized by the permit. Written notice of such violation containing an explanation of the nature and extent of the violation shall be served upon the permittee or their representative or agent engaged in the work at the site of same. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Such notice may be given either by personal delivery to the person or agent of the permittee engaged in the work at the site or, by certified or registered United States Mail addressed to the permittee. When any permit has been revoked and the work authorized by the permit has not been completed, the City may, at its discretion, elect to do such work as may be necessary to restore the street or part thereof to as good a condition as before the opening or access was made. In the event of such election, all expenses incurred by the City of Jeannette shall be recovered from the permittee, or their surety set forth hereafter, or other party who may be responsible for making such repairs, as the case may be.”

L. Section 2.3(H), as codified at § 462-20(C)(8) is hereby amended to read, in its entirety, as follows:

“Recordkeeping by City. The City Clerk, their deputy or authorized agent, shall keep a record of the permit application, the date of issuing such permit and of the place, character and extent of the opening, excavation, or access to be performed. Upon issuing any permit, the City Clerk shall forthwith notify the City Foreman, the Police Chief, the Fire Chief and any other appropriate emergency service provider of the place, character and extent of the proposed opening, excavations, or access.”

Section 5. Regulations Governing Work; Amendment of Article III (§ 462-21).
Article III, as codified at § 462-21, is hereby amended as follows:

A. Section 3.1(C), as codified at § 462-21(A)(3) is hereby amended to read, in its entirety, as follows:

“Boring or tunneling under streets. Boring or tunneling under paved streets is prohibited unless specially authorized in the permit issued by the City Clerk. The foregoing notwithstanding,

however, service lines, casings or conduits may be jacked or driven between openings, provided the permittee meets the following requirements:

- (a) The permittee has submitted a detailed plan for review by the City Engineer, providing information as to how such jacking or driving operation is to be performed;
- (b) The City Engineer approves such plan and such plan becomes part of the applicant's permit; and
- (c) The permittee agrees to assume full responsibility for damage to existing underground facilities and agrees to defend and hold the City of Jeannette harmless thereupon."

B. Section 3.1(D), as codified at § 462-21(A)(4) is hereby amended to read, in its entirety, as follows:

"Display of permit at site. Every person making or supervising any opening or excavation shall keep the street opening or access permit at the excavation site and exhibit same to any policemen or any other authorized representative of the City upon request. It shall be the duty of any such officer to report to the City Clerk the name of any person, firm, company, corporation or authority manning any opening or excavation without such permit or who is violating or who has violated any of the provisions of this article. Upon receiving a report that a person or entity has made a street opening provided for in this article without obtaining such permit, the City Clerk or duly designated deputy or agent shall immediately issue a citation for violation of this article and shall cause the work to be stopped until such time that a permit under this article is obtained."

C. Section 3.1(E), as codified at § 462-21(A)(5) is hereby amended to read, in its entirety, as follows:

"Identification of person performing work. During the progress of any work taking place under this article, a sign shall be maintained at the opening, excavation or access site, bearing the name of the public utility or contractor actually performing the work."

D. Section 3.2(B)(d), as codified at § 462-21(B)(2)(d) is hereby amended to read, in its entirety, as follows:

"The City Engineer shall review the restoration plan prior to the issuance of the street opening or access permit and may modify the proposed restoration plan to ensure that the surface is properly restored;"

E. Section 3.2(K), as codified at § 462-21(B)(12) is hereby amended to read, in its entirety, as follows:

"Notice to commence backfilling. The permittee shall notify the City Foreman of their intentions to backfill at least 24 hours in advance of starting. The City Foreman shall be present during the backfilling operation and the pouring of any concrete slab or surface course. Failure to provide such notice or the failure of the permittee to have the backfilling and pouring of the concrete slab or permanent surface performed under the supervision of the City Foreman is a violation of this article, subject to the penalties prescribed herein. In addition, the failure to provide such notice and to obtain the supervision of the City Foreman may result in the removal of the

backfill and slab and the performance of such work done over to the satisfaction of the City Foreman. In the event it is necessary to remove and replace the improperly installed surface or backfill, all other street opening or access permits for such permittee shall be immediately suspended, and no further permits shall be issued to such permittee until the backfilling and permanent surface restoration work has been properly completed.”

Section 6. Safety Controls; Amendment of Article IV (§ 462-22). Article IV, as codified at § 462-22, is hereby amended as follows:

A. Section 4(B), as codified at § 462-22(B) is hereby amended to read, in its entirety, as follows:

“Closing for repairing mains, conduits, etc.; notice of closing. No portion of any street, lane or alley shall be or remain impassable for vehicular or pedestrian traffic by reason of any opening, excavation, or access for repairing mains, conduits or other pipes or appurtenances, or for laying or relaying new house connections for more than two days from the beginning of any work on same unless such approval is set forth in the street opening or access permit. The permittee shall notify the Jeannette Fire Department, Police Department, Street Department and Jeannette EMS at least 48 hours in advance of such proposed street closing. Any extension of the street closing time without penalty must first be approved by the City Clerk or authorized representative.”

B. Section 4(D), as codified at § 462-22(D) is hereby amended to read, in its entirety, as follows:

“Work zone traffic controls. Traffic in the work area subject to the street opening or access permit shall be controlled consistent with the general terms, conditions, requirements and provisions of 67 Pa. Code Chapter 212, Subchapter E, relating to work zone traffic controls, and meet the approval of the Chief of Police. The failure to employ work zone traffic controls consistent with 67 Pa. Code Chapter 212, Subchapter E or obtain approval of same by the Chief of Police shall be a violation of this article and subject to punishment hereunder.”

Section 7. Liability Insurance and Bonding Requirements; Amendment of Article VI (§ 462-24). Article VI, as codified at § 462-24, is hereby amended as follows:

A. Section 6.1(A), as codified at § 462-24(A)(1) is hereby amended to read, in its entirety, as follows:

“(1) Worker's compensation and liability insurance required. Along with its application for a street opening or access permit, the applicant shall submit a certificate of insurance indicating that it carries worker's compensation insurance and is otherwise insured against claims for damages for personal injury and property loss which may arise from or out of the performance of the work, whether such performance is by the applicant, their subcontractor or any one directly or indirectly employed by the applicant. Such insurance shall include protection against liability arising from completed operations. The amount of coverage shall be prescribed by the City Engineer in accordance with the nature of the risks involved; provided, however, that the liability insurance

for bodily injury in effect shall be in an amount not less than \$100,000 for each person and \$300,000 for each accident and for property damage in an amount not less than \$50,000. The failure of the applicant to provide such certifications shall be grounds for denying any permit.”

B. Section 6.2(A), as codified at § 462-24(B)(1)(a) is hereby amended to read, in its entirety, as follows:

“(a) Each applicant, at the time of issuance of a street opening or access permit, shall provide the City with the following bonds:

[1] When the permittee is a franchised utility, a corporate continuing bond from year to year in a minimum amount of \$20,000; and

[2] When the permittee is not a franchised utility or government agency, a cash bond in an amount to be determined by the City Engineer, said amount to be equivalent to the City Engineer's estimate of all costs, fees and expenses necessary for the performance of the work and in meeting compliance requirements with the provisions of this article.”

Section 8. Rules and Regulations. The City Council of the City of Jeannette is hereby authorized and empowered to prepare, promulgate, and enforce rules and regulations made pursuant to the provision of this Ordinance. Such rules and regulations shall have the full force and effect of law unless modified, revoked, or repealed by City Council.

Section 9. Codification. This Ordinance shall be codified within the codified ordinances of the City of Jeannette as an amendment to §§ 462-18, 462-19, 462-20, 462-21, 462-22, and 462-24, respectively.


Section 10. Severability. It is herein declared that the provisions of this Ordinance are severable, and if any provisions, portions, or sections of this Ordinance are declared to be illegal, invalid, or unconstitutional, the decisions of any Court, which makes declarations, shall not impair or affect any of the remaining portions of this Ordinance.

Section 11. Repealer. Any ordinance or part of any ordinance that conflicts with the provisions of this ordinance is hereby repealed to the extent of any such conflict on the effective date of this ordinance.

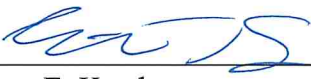
Section 12. Effective Date. This Ordinance shall become effective ten (10) days after its enactment.

This Ordinance is duly ORDAINED AND ENACTED by a majority of the members of the City Council of the City of Jeannette at a duly advertised public meeting held on the _____ day of _____, 2025.

CITY OF JEANNETTE

By: 
Curtis J. Antoniak
Mayor and President of Council

ATTEST: (SEAL)


Ethan E. Keedy
City Manager/City Clerk